

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7024

BILL NUMBER: HB 1329

NOTE PREPARED: Jan 14, 2008

BILL AMENDED:

SUBJECT: Sex Offenses and Children.

FIRST AUTHOR: Rep. Reske

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill changes the annual sex and violent offender fee to a monthly fee that is at least \$50 but may not be more than 10% of the offender's net monthly income.

The bill provides that, as a condition of probation or parole, a sex offender: (1) must consent to the search of the sex offender's computer at any time; (2) must permit disclosure by the sex offender's Internet service provider of the sex offender's Internet usage; (3) may be prohibited by a probation or parole officer from using or accessing certain web sites, chat rooms, or instant messaging programs; and (4) may not delete, erase, or tamper with information on the sex offender's computer that relates to Internet usage.

This bill requires a school corporation to include a mandatory instructional unit on safely using the Internet for grades 3 and above.

The bill makes it a Class A misdemeanor for a person at least 21 years of age to propose a face-to-face meeting with a child less than 14 years of age by computer network or cellular telephone text message if the communication between the parties involves a reference to sexual activity, and enhances the crime to a Class D felony for a second or subsequent offense.

The bill also specifically provides that law enforcement officials may seize computers and other equipment used to commit or facilitate sex crimes.

Effective Date: July 1, 2008.

Explanation of State Expenditures: *Change in Conditions of Parole:* The legislation adds the requirement that sex offenders consent to (1) search of computer files at any time including Internet search history and

(2) restricts the offender's Internet usage and ability to alter information contained on the offender's computer as a condition of parole. Adding these provisions to current law could increase the workload of parole officers employed by the Department of Corrections (DOC) to ensure that offenders are compliant with the new regulation. Additionally, the legislation would add new grounds for terminating an offender's parole. If an offender were to violate these conditions contained in the legislation, a parole revocation hearing may be required which could increase the workload of DOC Parole Board staff.

Additionally, if a sex offender is found to have violated one of the new conditions in the legislation and a parole revocation hearing determines that an offender's parole be revoked, the offender would be re-incarcerated in DOC facilities. Any increase in expenditures to house offenders that violate conditions of their parole will depend on decisions made by the DOC Parole Board at the hearing.

Development of Internet Safety Curriculum: The bill requires the Department of Education (DOE) to develop guidelines concerning instruction of Internet safety curriculum. This provision will increase the workload of the DOE to provide guidance to school corporations regarding the particular topics the legislation addresses.

Penalty Provision: The legislation defines that individuals that attempt to arrange a face-to-face meeting with a child who is believed to be under the age of 14 by using either a computer network or via text messaging commits improper communication with a minor, which is a Class D felony if the person (1) has a prior unrelated conviction, (2) is at least 21 years old, and (3) the communication has a reference to sexual activity.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$19,185 in FY 2007. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$63,138. The average length of stay in DOC facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: *Change in the Sex Offender Registration Fee:* Under the provisions of this legislation, revenue to the state Sex and Violent Offender Administration Fund would increase. The maximum estimated revenue from fees this legislation will generate for the state is \$588,000; a maximum increase of \$539,000.

Current statute provides for a sex or violent offender registration fee of \$50 per year, of which the state receives \$5. The bill provides that the fees must be at least \$50 per month in the legislation (\$600 per year), of which the state would receive \$60 per year. The bill provides that the fees are not allowed to exceed 10% of the offender's net monthly income. Fees are deposited into the state Sex and Violent Offender Administration Fund. The balance in the state Sex and Violent Offender Administration Fund as of January 7, 2008, was \$1,746.

Penalty Provision: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is

filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$17), public defense administration fee (\$3), court administration fee (\$3), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: *Change in Conditions of Probation:* Probation is a court function of counties. The legislation adds the requirement that sex offenders consent to (1) search of computer files at any time including Internet search history and (2) restricts the offender's Internet usage and ability to alter information contained on the offender's computer as a condition of parole. Adding these provisions to current law could increase the workload of probation officers employed by local courts of jurisdiction to ensure that offenders are compliant with the new regulation. Additionally, the legislation would add new grounds for revoking an offender's probation. If an offender were to violate these conditions contained in the legislation, a probation revocation hearing may be required which could increase the workload of local courts of jurisdiction.

Additionally, if a sex offender is found to have violated one of the new conditions and a probation revocation hearing decides to revoke an offender's probation, the offender would be re-incarcerated in county facilities. Any increase in expenditures to house offenders that violate conditions of their probation will depend on decisions made by courts during the hearing.

Development of Internet Safety Curriculum: School corporations are required to provide instruction to students starting in the 3rd grade regarding Internet safety. This provision will increase the workload of school staff. Actual workload increases will depend on administrative decisions made by the state Department of Education.

Penalty Provision: The legislation defines that individuals that attempt to arrange a face-to-face meeting with a child who is believed to be under the age of 14 by using either a computer network or via text messaging commits improper communication with a minor, which is a Class A misdemeanor if the person is at least 21 years old and the communication has a reference to sexual activity.

A Class A misdemeanor is punishable by up to one year in jail. If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: *Change in the Sex Offender Registration Fee:* Under the provisions of this legislation, revenue to the county sex and violent offender administration fund would increase. The maximum estimated revenue from fees this legislation will generate for counties is \$5.3 M; a maximum increase of \$4.85 M.

Fees are set at \$50 per month in the legislation, but are not allowed to exceed 10% of the offender's net monthly income. Maximum total revenue generated to the county from fees under the legislation would be \$540 per offender, per year. The legislation would increase revenue to the counties by a maximum amount of \$495 per offender per year. [The annual sex or violent offender registration fee is not to exceed \$50. Counties can currently retain \$45 of the \$50 annual sex or violent offender registration fee.]

Penalty Provision: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement

agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

Fiscal Analyst: Bill Brumbach, 232-9559.